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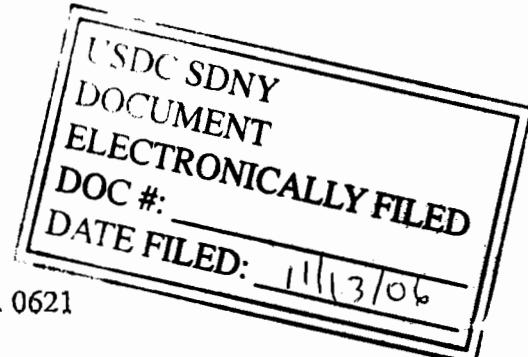
## MEMO ENDORSED

JEFFREY C. HOFFMAN  
JOHN L. POLLOK  
SUSAN C. WOLFE  
WILLIAM A. ROME  
LISA ROSENTHAL  
JACQUELINE N. LAND

MICHAEL S. POLLOK  
OF COUNSEL  
ROBERT H. KIERNAN  
(1973 - 1995)

November 10, 2006

Hon. Kenneth M. Karas  
Judge, U.S. District Court  
United States Courthouse  
500 Pearl Street – Rm. 2260  
New York, N.Y. 10007-1312  
Fax No: 212 805-7968

Re: *United States v. Alberto Vilar - 05 Cr. 0621*

Dear Judge Karas:

Prior to the hearing session in July, we served subpoenas upon Lily Cates and Lisa Mayer, the two investors described in the search warrant application. Because the court had not yet granted a *Franks* hearing, we agreed with the attorneys for the witnesses that we would withdraw the subpoenas upon their representation that their clients would be available in the event the Court rules their testimony admissible.

We believe that the testimony of Inspector Fraterrigo on November 15, 2006 will provide a sufficient factual basis for us to call Ms. Cates and Ms. Mayer as witnesses. For example, if Inspector Fraterrigo denies receiving certain information (within the parameters of the hearing, of course) from Cates or Mayer, and we have a good faith basis to believe, from documentation or otherwise, that the information was in fact imparted to Inspector Fraterrigo, we will seek to call the witnesses.

Counsel for Ms. Cates has advised me that he is only available until 3:00 p.m. on Wednesday. Counsel for Ms. Mayer has informed me that he is otherwise engaged on two matters that day.

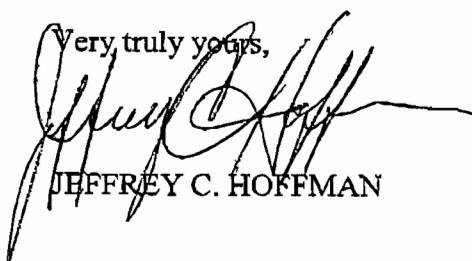
Your Honor has unequivocally advised the parties that the hearing will begin and end in one day on November 15<sup>th</sup>. Obviously, we cannot make a fact-specific application to call Cates and Mayer until Inspector Fraterrigo has testified. Before I advise the attorneys that we require their clients' attendance despite any inconvenience to their counsel, I am seeking the Court's direction. Should I advise counsel for the witnesses that they must appear on the 15<sup>th</sup> or will the Court convene an additional hearing date if it rules, upon our application, that we may call the witnesses?

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Thank you for your attention.

Very truly yours,

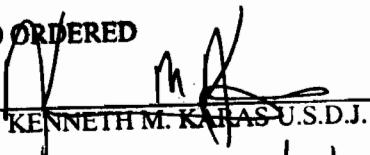


JEFFREY C. HOFFMAN

Cc: AUSA Marc Litt  
Glenn Colton, Esq.  
Bernard S. Mark, Esq.  
Lawrence Rosen, Esq.

The Court finds that there is no basis, based on the record thus far, to require the testimony of either Ms. Carter or Ms. Mayer. Therefore, neither need be available on November 15, 2006. If the record is developed to suggest otherwise, we can take that up after the hearing.

SO ORDERED

  
KENNETH M. KARAS U.S.D.J.

11/10/06